

STATE OF UTAH, IN AND FOR UTAH COUNTY.

Provo Reservoir Company)
 Plaintiff,)
 VS.)
 Provo City et al.)
 Defendants,)

No. 2888 Civil/

PETITION OF LAKE BOTTOM CANAL COMPANY,
 a corporation, FOR AN ORDER ON CONSTRUCTION
 AND INSTALLATION OF MEASURING GATES.

Comes now, Lake Bottom Canal Company, a corporation, one of the parties to the above entitled cause, and alleges as follows, to-wit:

1. That the petitioner is a corporation, duly organized existing and doing business under and by virtue of the laws of the State of Utah, with its office and principal place of business located at Provo, Utah County, State of Utah. That said petitioner is the owner in trust of a portion of the waters of Provo River and Spring Creek, in Utah County, State of Utah; and said petitioner now is and for many years last past has been engaged in the regulation, control and distribution of a portion of the waters of said Provo River and Spring Creek among its stockholders and those entitled to the use of said waters.

2. That T.F.Wentz of Provo, Utah County, Utah, now is and for many years last past has been the commissioner appointed by the above entitled Court, with full power and authority to measure, control, regulate and distribute the said waters of Provo River and Spring Creek among all parties entitled to the use thereof, and with further power and authority, from time to time, to construct or cause to be constructed, such dams, weirs, and appliances as are necessary to the equitable and economical distribution of said waters.

3. That the above entitled Court, in the decree in the above entitled cause, has retained jurisdiction of said cause and the subject matter litigated in said cause, and of all the parties thereto, and their successors and assigns, for the purpose, from time to time, of making orders, rules and regulations such as are necessary for the

regulation, control and distribution of the waters of the Provo River system according to the terms of the decree in said cause, and for the purpose of compelling, by further order, decree or otherwise, the construction of such improvements, dams, weirs, and appliances as may from time to time, be found necessary or expedient for the proper carrying out of the terms of said decree, and for the equitable and economical distribution of the said waters, and to punish any of the parties to said cause, their officers, agents, servants or employees, and their grantees and successors in interest for any violation of the provisions of said decree.

4. That, Sidney Harding, A.L.Tanner, Esthma Tanner, Frank Williamson, Arthur Clyde, Rex Griffith, J.M.Bonny, Margaret Gard, B.H. Jelly, Henry White, Owen Davis, Frank Jones, Reed Nuttal, Hugh L.Syme, W.A.Nuttal, John Kuhn, Mary A.Brown, Reed Brown, Charles H.Davies, Clara Gay, J.Joseph Johnson, Fred Martinez, J.H.Hortt, A.F.Snyder, George Long, Elmer Lee, Mrs. L.S.Gibson, Mac Brickey, Frank Bethers, Heber Harding, and Ashted Taylor, and each and all of said parties, have the right and claim the right to the use of certain waters of said Provo River system, along the course of Spring Creek and Lake Bottom Channel from Provo River, as particularly set out in the said decree in the above entitled cause.

5. That, all of said parties, according to the terms of said decree, are on schedule and are given water ticket to use their respective quantities of water for periods of time, on rotation system; that, there is not now gates or measuring devices to properly turn out and measure the quantity of water to which said parties are entitled; that, there should be constructed and installed, before the season of 1934, head-gates and appliances for the diversion and measurement of said water, and the same are necessary for the proper carrying out of the terms of said decree, and for the equitable and economical distribution of the waters claimed by said parties respectively and awarded to said parties respectively, and their predecessors in title and interest, by the terms and provisions of said decree.

6. That, each and all of said parties divert water above and along the course and channels that supply the canal of this petitioner, and in order that this petitioner may receive the quantity of water to which it is entitled by said decree, said parties must be controlled and limited to the quantity of water to which they are respectively entitled.

7. That none of the parties hereinbefore named acknowledge themselves responsible for the payment of any of the costs of such construction or any fixed portion thereof. That, it is necessary that an order of this Court be made, which is binding upon all of said parties, fixing the amount to be paid by each of said parties for said construction, and installation.

8. That, before said commissioner can proceed in the construction and installation of said dams, gates, and improvements, it is necessary that the responsibility for the payment of the costs of the construction and installation of the same be fixed, and the amount assessed against said parties and each of them by an order of the above entitled court.

9. That, the petitioner is informed and believes, and upon such information and belief alleges that the necessity for the construction and installation of said dams, gates and improvements at said points of diversion, used by the parties hereinbefore mentioned and the assessment of the costs of said improvements against and among said parties is properly by an order of the above entitled Court, and that said Court is the only tribunal that has the power or jurisdiction to make such order, that such order is necessary that the decree of said Court may be properly carried out and enforced.

10. That the duly appointed, qualified and acting commissioner of the above entitled Court, appointed by said Court, with full power and authority to measure, control, regulate and distribute the said waters of the Provo River System, among all parties entitled to the use thereof, and with full power and authority to construct or caused to be constructed, such dams, weirs and appliances as are necessary to the equitable and economical distribution of the waters of said Provo River system, be authorized and directed to purchase and install at

the points hereinafter designated, gates and measuring devices as shown, that all other openings of said parties be forever closed, and that each party named pay to the clerk of this Court the respective amounts set opposite their names, within ten days after notice thereof; and upon failure to pay the same within ten days after notice thereof, the said commissioner be authorized to withhold further distribution of waters to the parties so in default until the same shall be paid.

11. That, the following equipment ^{is necessary for the proper distribution of the waters for purpose of irrigation and health} be installed at the points designated, to-wit:

At Diversions Nos. 1, 2, 3, 5, and 7 :-

15 Inch Calco Meter Gate, four foot frame; 7 feet of No. 16 corrugated steel pipe attached; and set of galvanized wells 2 feet high; at cost each of \$31.57.

At diversions Nos. 4 and 6.

18 Inch Calco Meter Gate; 4 foot frame; 7 feet of No. 16 corrugated steel pipe attached; and set of galvanized wells 2 feet high; at cost each of \$40.37.

12. That the locations of said points of diversion, is as herein shown, together with the name of each party interested therein, the number of acres of water right of each respectively, and the respective amounts each party to be assessed and required to pay, is as follows, to-wit:

Diversion No. 1.

Near North line of Sidney Harding, present heading, West Side Spring Creek; immediately below Calco Gate flume to be constructed over Spring Creek to also serve ditch flowing to East.

Name	Acres	Amount
Sidney Harding	7.52	\$3.00
A.L. Tanner	30.00	11.85
Esthna Tanner	28.00	11.10
Frank Williamson	8.88	3.55
Rex Griffith	1.75	0.70
Arthur Clyde	3.50	1.37
Totals	79.65	\$31.57

Diversion No. 2.

About 500 feet North of South Line of Esthma Tanner property, present heading, West side of Spring Creek, immediately below Calco Gate flume to be constructed over Spring Creek to serve ditch flowing South.

Name	Acres	Amount
Esthma Tanner	8.00	\$31.57

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Diversion No. 3.

Near North line of A.L. Tanner property, present heading, diverting from Lake Bottom Channel from river, on West side.

Name	Acres	Amount
Esthma Tanner	7.00	\$31.57

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Diversion No. 4.

Tanner-Bonny Ditch and Clyde Ditch, combining these diversions, at present heading of Tanner-Bonny Ditch, 500 feet upstream from present head of Clyde Ditch, diverting from Lake Bottom channel from river; to South and East.

Name	Acres	Amount.
Esthma Tanner	12.7	\$7.90
J.M. Bonny	9.0	5.60
Margarett Gard	3.51	2.15
B.H. Jolly	6.0	3.75
Henry White	3.21	2.00
Frank Jones	5.0	3.10
Reed Nuttal	6.15	3.80
Hugh L. Syme	11.0	6.77
W.A. Nuttal	8.50	5.30
Totals	65.07	\$40.37

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Diversion No. 5.

Davis Ditch, at Northeast corner of Owen Davis property; to South and West.

Name	Acres	Amount.
Owen Davis	12.05	\$18.07
J.M. Bonny	9.0	13.50
Totals	21.05	\$31.57

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Diversion No. 6.

Nuttal-Brown Ditch, at present heading of Nuttal Ditch, 250 feet upstream from present heading of Brown Ditch, combining these diversions.

Name	Acres	Amount.
W.A.Nuttal	24.69	\$8.55
John Kuhn	3.0	1.05
Mary A.Brown	13.12	4.60
Reed Brown	5.50	1.90
Charles H.Davies	23.50	8.20
Clara Gay	2.0	0.70
J.Joseph Johnson	4.85	1.70
Fred Martinez	3.59	1.25
J.H.Hortt	1.25	0.45
A.F.Snyder	7.42	2.60
George Long	3.51	1.22
Elmer Lee	2.0	0.70
Mrs.L.S.Gibson	5.3	1.85
Mao Brickey	1.75	0.60
Frank Bethers	14.30	5.00
Totals	115.78	\$40.37

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Diversion No. 7.

Partridge Ditch, present heading, East side Spring Creek.

Name	Acres	Amount.
Heber Harding	5.00	\$4.85
J.Joseph Johnson	5.05	4.90
Ashted Taylor	22.46	21.82
Totals	32.51	\$31.57

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WHEREFORE, Petitioner prays that the above entitled Court issue an order, authorizing and directing the purchase of said gates and the installation of the same at the respective points heretofore designated, and that all other openings along said course of Spring Creek and Lake Bottom Channel of said parties be forever closed, and requiring each of aforesaid parties to pay to the clerk of this Court the respective amounts set opposite their names within ten days after notice thereof, and upon failure to pay the same within ten days after notice thereof, the said commissioner be authorized to withhold further distribution of waters to the parties so in default until the same shall be paid; and that said parties shall install said gates at their own expense under the supervision and direction and to the satisfaction of the said commissioner, and that such further orders and judgements be made as to the Court may seem meet and equitable in the premises.

LAKE BOTTOM CANAL COMPANY
a Corporation

By W. J. Taylor
its President, Petitioner.

STATE OF UTAH)
COUNTY OF UTAH)) SS.

W.J. Taylor, being first duly sworn, upon oath, deposes and says; that he is an officer and agent of Lake Bottom Canal Company, a corporation, the petitioner named in the foregoing petition, to-wit: the President of said corporation; that he makes this verification for and on behalf of said corporation; that he has read the foregoing petition and knows the contents thereof; that the same is true of his own knowledge, except as to matters therein stated upon information and belief, and as to those matters he believes it to be true.

W. J. Taylor

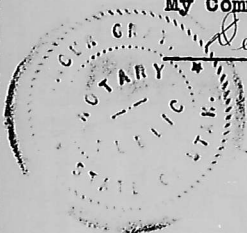
Subscribed and sworn to before me this 26th day of October A.D. 1933.

Seymour Gray
Notary Public.

Residing at Council Bluffs,

My Commission expires

Dec. 2, 1933.



20888

IN DIST. COURT
UTAH CO., UTAH
FILED

OCT 28 1933

Frank H. Lusk Clerk
Russell H. Lusk Deputy